

UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**MARVIN E. JACOBS
KOPPEL & JACOBS
SUITE 215
2151 ALESSANDRO DRIVE
VENTURA CA 93001**

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,494,458 :
Issued: December 17, 2002 :
Application No. 09/750,623 : **ON PETITION**
Filed: December 19, 2000 :
Attorney Docket No. 860-20-009 :

This is a decision on the petition under 37 CFR 1.378(c), filed August 1, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) listed above.

With regards to item (1), the petition must be signed by:

- 1) An attorney or agent of record appointed in compliance with § 1.34(b);
- 2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
- (5) All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73. (Form PTO/SB/96 enclosed)

Petitioner has submitted a petition under 37 CFR 1.378(c), however, the petition as signed cannot be accepted since Sarah Lee Ling Uth is not authorized to sign the instant petition. Further, petitioner has not established that the person who signed the petition form is authorized to sign on behalf of the patentee(s), assignee, or other party of interest. Consequently, the petition under 37 CFR 1.378(c), cannot be accepted at this time. A renewed petition with the proper signature as listed above is required.

Further, if the instant petition is on the behalf of the assignee, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Currently, there is no Statement under 37 CFR 3.73(b) of record in the above-identified patent.

A courtesy copy of this decision is being mailed to the address on the petition; however, all future correspondence will be mailed solely to the address of record.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571)-272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: form PTO/SB/96

cc: Sarah Lee Ling Uth
 2205 Radcourt Dr.
 Hacienda Heights, CA 91795